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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,199	11/25/2003	Dwayne Nelson	29757/P-262A	6785
4743	7590	12/12/2007		
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			EXAMINER HARPER, TRAMAR YONG	
			ART UNIT	PAPER NUMBER
			3714	
			MAIL DATE	DELIVERY MODE
			12/12/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/722,199	NELSON, DWAYNE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tramar Harper	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 91-94, 97 and 100-113 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 91-94, 97 and 100-113 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Examiner acknowledges Request for Continued Examination filed 11/21/07.

Examiner acknowledges receipt of amendment filed 11/21/07. The arguments set forth are addressed herein below. Claims 91-94, 97, and 100-113 are pending, Claims 1-90, 95-96, 98-99, and 114-132 are canceled, and Claim 1 is currently amended.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In regards to the limitation "when the electronic gaming unit is operational and can allow the user to play the gambling game" that is repeated twice in the claim, it is unclear as to where in the specification it clearly states such a limitation.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 91-94, 100, 103-108, and 110-111 are rejected under 35 U.S.C.**

**103(a) as being unpatentable over Acres (US 6,254,483) in view of Burns et al (US 6,048,269).**

**Claims 91-94, 100, 103-108, & 110-111:** Acres teaches a gaming system that has a display, an input device, a currency accepting mechanism and a controller (Configuration Workstation - Fig. 1) to generate various video games (Col. 1:1-Col. 3:20). Column 2:18-28 discloses that reconfiguring the primary game and the secondary game is analogous since they are configured in the same manner. With respect to the minimum bet and the denomination for the deposit of currency please see 2:35-55 which discloses being able to vary the wager per unit time and that it is desirable for the casino to set the cost to the player at a higher level during high demand periods and at a lower level, to attract players, during low demand periods (Fig. 4-5). Column 3:24-26 discloses that the method of configuring electronic gaming machines interconnected by a computer network to a host computer and that selected configuration parameters are implemented at each machine. The game machines can be used in a standalone configuration **(which means the EGM would inherently have to have an internal clock/time generator to monitor time)** or network configuration and that such configuration parameters control the behavior of the electronic gaming machine (Col. 5:47-Col. 6:12). **Acres discloses that the configuration workstation is programmed to monitor various gaming parameters such as the time the interconnected machines are played and that configuration**

parameters are implemented by downloading the data to respective EGM's or the configuration parameters are already installed (Col. 6:5-8, Col. 6:63-Col. 7:10). Various game parameters examples that are changed are sound effects (Col. 3:17-20 encompasses volume), appearance (Col. 3:17-20 encompasses theme and brightness), a bonus game (Col. 8:20-48), payback percentage (Col. 8:4, Abstract). For example, different time periods are entered into the configuration workstation and at the beginning/start of each time period a computer command (time signal) is issued and in response to the command the EGM reconfigures itself, based on parameters already stored within the EGM (obtains appropriate configuration data), to change the payback percentage or paytables of the EGM (Col. 8:1-13, see above). Therefore, the workstation, which comprises a computer, etc, inherently has to encompass a time generator (making it external to the gaming unit) that maintains the time in order to achieve the above (Col. 6:55-62). Acres, also clearly states the scope of the invention is to change game machine aspects/behaviors with respect to time (3:18) in addition to other such variables. Acres also teaches in the abstract that machine behaviors such as game speed, payback percentage, game appearance are changed in response to a signal from one of a number of variables, such as time (Abstract). Acres furthermore offers more support for the behaviors such as payback percentage modified based upon time (8:49-65). In regard to memory mediums used, Acres teaches using optical (4:3), and various semiconductor memories such as PROMs (5:21) and RAM (5:25) to store various instructions to implement and execute the above-taught game system. Acres

clearly states that the game (main/bonus) is changed in accordance with a time signal and that many variables may be changed such as configuration parameters that control the behavior and appearance of the machine in response to time (3:15-20). Changing configuration parameters that control the behavior and appearance of the machine is changing the game in response to time. With respect to changing the bonus game with respect to time see above where Acres discloses that altering the main or bonus games require the same steps and are therefore analogous. Acres lacks in specifically disclosing that the controller change a minimum bet for the video gambling game in response to the time signal. **Instead, Acres states that it is desireable for the casino to set the cost to the player at a higher lever (cost interpreted as the minimum wager or coin-in amount, although not explicitly stated) at a higher level during high demand periods to increase casino revenue and a lower level at low demand periods to attract players (Col. 2:50-55). It is well known in the art for casinos to change the coin-in amount or wager amount on gaming machines for purposes the purposes of Acres, above.** In an analogous game machine to Burns therein is disclosed that it is known and desirable that the use of the system in association with electronic gaming machines eliminates the necessity of having slot machines dedicated to a particular amount of wager. At the present time, the typical casino has slot machines that are dedicated to accept only one value of coin. For example, a slot machine may be a 25 cent machine, accepting only quarters; a 5 cent machine; or a dollar machine. It is very time consuming to physically change the slot machine, which may be desirable during a

major event or New Years Eve, when slot machines having higher wager limits are desirable. **Acres teaches the concept of changing configuration parameters of gaming machines respective to time. Considering that both Acres and Burns teach that it desirable to change the cost of a gaming machine (minimum wager or coin-in) during certain time periods for purposes of increasing revenue and attracting more players one would be motivated to combine the teachings of Acres and Burns.** Therefore it would have been obvious to one of ordinary skill in the art to change the minimum denomination with respect to a time signal.

**Claims 101, 102, 112, & 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres US Patent 6,254,483 in view of Burns et al US Patent 6,048,269 as shown above in further view of Miura US Patent 6,354,943.**

**Claims 101-102 and 112-113:** Acres discloses all of the instant application, as taught above, but lacks in specifically teaching that the controller replaces at least one of the available gambling games in response to the time signal and specifically stating replacing a first bonus game for a second bonus game. Instead Acres clearly states that the game (main/bonus) is changed in accordance with a time signal and that many variables may be changed such as configuration parameters that control the behavior and appearance of the machine in response to time (3:15-20). Changing configuration parameters that control the behavior and appearance of the machine is changing the game in response to time. With respect to changing the bonus game with respect to time see above where Acres discloses that altering the main or bonus games require the same steps and are therefore analogous. The above is motivation

to one skilled in the art to seek a reference that changes the games with an available game in response to time. In an analogous game machine to Miura, therein, Miura discloses changing available games with respect to a time signal. It would be obvious to one of ordinary skill in the art to change the games in Acres with available games (main/bonus) with respect to a time signal as taught in Miura using the above motivation that the game may be changed.

**Claims 97 and 109 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres (US 6,254,483) in view of Burns et al (US 6,048,269) as shown above in further view of Weiss (US 5,611,730).**

**Claims 97 & 109:** Acres discloses all of the instant application as taught above but lacks in specifically disclosing "change a maintenance schedule of the gaming unit in response to a time signal. Instead, Acres discloses at the bottom of column 8 that it is to be appreciated that multiple variables may be monitored and multiple configuration parameters may be changed in response to the monitored variables. Maintenance of game machines is inherent to the use of game machines. In an analogous invention to Weiss column 14 and figure 5 discloses a maintenance system which generates maintenance request signals in real time for jackpot and fill notifications provided thru the computer network to a pager of a maintenance person. This is a maintenance request in response to a time signal. In this case the time signal is the real time message forwarded to the computer system. It is also notoriously well known that these types of systems need to have regularly scheduled maintenance performed. It is obvious to one of ordinary skill in the art that the system of Acres could use the



maintenance system of Weiss in that computer monitoring of the system of Acres would provide the maintenance people the proper signals for Jackpot and fill notifications as is well known in the art.

### ***Response to Arguments***

Applicant's arguments filed 11/21/07 have been fully considered but they are not persuasive. In regards to the amended limitations please see above. Examiner reiterates the response to arguments filed 2/21/07. Acres discloses a system that is capable of changing configuration parameters in gaming machines respective of time. The configuration parameters comprise of parameters such as game speed, payback percentage, or game appearance. Acres discloses that it is desirable to set the cost to a player at a high level during high demand periods and at a lower level at a lower demand period. Acres discloses that it is desirable to vary the wager per unit time, which is the cost to the player, in accordance with the demand on the casino floor (Col. 2:35-55). Acres does not explicitly disclose the changing the denomination/coin-in amount or minimum wager amount respective of time, but Acres does implicitly disclose varying/changing the cost to the player respective of time as noted above. Although the citation discloses the phrase "desirable" it is only to put emphasis on the advantage of the disclosed art e.g. the desire is achieved by the disclosed art. Burns puts emphasis on the above, and further adds on that it is desirable to change the minimum wager during certain time periods, but is difficult to achieve. Burns discloses EGMs capable having the minimum wager changed at any time during high or low demand periods. Considering that Acres teaches changing configuration parameters respective to time

and knowing that increasing the cost to a player during high demand periods (Acres and Burns) increases revenue. One skilled in the art at the time of the invention would be motivated to modify Acres configuration system to change the coin-in or minimum wager amount respective of time, for purposes above. Furthermore, It is noted that no arguments were presented with respect to claims 92-94, 97, & 100-113. It can only be assumed applicant acquiesces in this rejection.

***Conclusion***

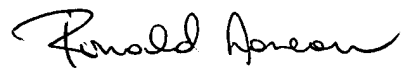
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tramar Harper whose telephone number is (571) 272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Ronald Laneau  
Primary Patent Examiner  
Art Unit 3714

TH

12/04/07